

Request for Reconsideration after Final Action

The table below presents the data as entered.

| Input Field | Entered |
|---|--|
| SERIAL NUMBER | 78945969 |
| LAW OFFICE ASSIGNED | LAW OFFICE 104 |
| MARK SECTION (no change) | |
| GOODS AND/OR SERVICES SECTION (current) | |
| INTERNATIONAL CLASS | 035 |
| DESCRIPTION | |
| Retail store services, namely, retail winery stores and on-line internet retail winery stores featuring wine, wine glasses and champagne flutes, excluding wine-making kits consisting primarily of fruit juices and/or fruit juice concentrates and chemical additives | |
| FILING BASIS | Section 1(a) |
| FIRST USE ANYWHERE DATE | At least as early as 06/11/2005 |
| FIRST USE IN COMMERCE DATE | At least as early as 06/11/2005 |
| GOODS AND/OR SERVICES SECTION (proposed) | |
| INTERNATIONAL CLASS | 035 |
| DESCRIPTION | |
| Retail store services, namely, retail winery stores and on-line internet retail winery stores featuring wine, wine glasses and champagne flutes, excluding wine-making kits consisting primarily of fruit juices and/or fruit juice concentrates and chemical additives | |
| FILING BASIS | Section 1(a) |
| FIRST USE ANYWHERE DATE | At least as early as 06/11/2005 |
| FIRST USE IN COMMERCE DATE | At least as early as 06/11/2005 |
| ADDITIONAL STATEMENTS SECTION | |
| PRIOR REGISTRATION(S) | The applicant claims ownership of U.S. Registration Number(s) 3916569 and 3794975. |
| MISCELLANEOUS STATEMENT | In addition to all responses made by Applicant to this point, the Applicant hereby submits statements of ownership of two U.S. Trademark Registrations which have not been |

| | |
|---------------------------------------|--|
| | considered by the Office. The Applicant submits that this ownership further provides evidence that no likelihood of confusion exists. Reconsideration is respectfully requested. |
| SIGNATURE SECTION | |
| RESPONSE SIGNATURE | /Kevin Lynn Wildenstein/ |
| SIGNATORY'S NAME | Kevin Lynn Wildenstein |
| SIGNATORY'S POSITION | Attorney of Record, State Bar of New Mexico |
| SIGNATORY'S PHONE NUMBER | (505) 944-2500 |
| DATE SIGNED | 11/21/2011 |
| AUTHORIZED SIGNATORY | YES |
| CONCURRENT APPEAL NOTICE FILED | YES |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Mon Nov 21 15:11:58 EST 2011 |
| TEAS STAMP | USPTO/RFR-12.155.8.196-20 111121151158990305-789459 69-490264fe3b616656eb137a b6417e42f81-N/A-N/A-20111 121133646163515 |

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **78945969** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 035 for Retail store services, namely, retail winery stores and on-line internet retail winery stores featuring wine, wine glasses and champagne flutes, excluding wine-making kits consisting primarily of fruit juices and/or fruit juice concentrates and chemical additives

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/11/2005 and first used in commerce at least as early as 06/11/2005, and is now in use in such commerce.

Proposed: Class 035 for Retail store services, namely, retail winery stores and on-line internet retail winery stores featuring wine, wine glasses and champagne flutes, excluding wine-making kits consisting primarily of fruit juices and/or fruit juice concentrates and chemical additives

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/11/2005 and first used in commerce at least as early as 06/11/2005, and is now in use in such commerce.

ADDITIONAL STATEMENTS

Claim of Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 3916569 and 3794975.

Miscellaneous Statement

In addition to all responses made by Applicant to this point, the Applicant hereby submits statements of ownership of two U.S. Trademark Registrations which have not been considered by the Office. The Applicant submits that this ownership further provides evidence that no likelihood of confusion exists. Reconsideration is respectfully requested.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Kevin Lynn Wildenstein/ Date: 11/21/2011

Signatory's Name: Kevin Lynn Wildenstein

Signatory's Position: Attorney of Record, State Bar of New Mexico

Signatory's Phone Number: (505) 944-2500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 78945969

Internet Transmission Date: Mon Nov 21 15:11:58 EST 2011

TEAS Stamp: USPTO/RFR-12.155.8.196-20111121151158990

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